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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191120
Party	Defendant Sekses Distribution, LLC
Correspondence Address	PEYMAN DADMEHR DANESH & DADMEHR, LLP 10866 WILSHIRE BLVD STE 400 LOS ANGELES, CA 90024-4300 UNITED STATES
Submission	Answer
Filer's Name	Ellie Hourizadeh
Filer's e-mail	Peyman@bdllp.com,jarciniega@mwe.com,egarcia@mwe.com,ehourizadeh@mwe.com
Signature	/Ellie Hourizadeh/
Date	08/31/2009
Attachments	Answer to Opposition 91191120.PDF (7 pages)(48937 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re: Application Serial No. 77/576,111)	
Mark: COMU E & Design)	
Filed: September 22, 2008)	
Published: January 20, 2009)	
)	
In re: Application Serial No. 77/560,875)	
Mark: COMUNE (with a reversed letter "N"))	
Filed: September 2, 2008)	
Published: January 20, 2009)	
)	
EDDIE HAHM,)	Opposition No. 91191120
)	
)	
Opposer)	
)	
vs.)	
)	
SEKSES DISTRIBUTION, LLC,)	
)	
)	
Applicant)	

Commissioner for Trademarks
Attention: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO OPPOSITION

In response to the Notice of Opposition filed by Eddie Hahm ("Opposer") on July 20, 2009, Opposition No. 91191120 (the "Opposition"), Sekses Distribution, LLC ("Applicant") hereby answers as follows:

1. Applicant denies all the allegations contained in numbered paragraph 1 and the preceding paragraph of the Opposition.
2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in numbered paragraph 2 of the Opposition, and on that basis denies all those allegations.

3. In response to numbered paragraph 3 of the Opposition, Applicant admits as to the filing of U.S. Trademark Application Serial No. 77/576,111. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 3 of the Opposition.

4. In response to numbered paragraph 4 of the Opposition, Applicant admits as to the filing of U.S. Trademark Application Serial No. 77/576,111. Except as specifically admitted herein, Applicant denies each and every allegation contained in paragraph 3 of the Opposition.

5. In response to numbered paragraph 5 of the Opposition, Applicant admits that the goods listed in its U.S. Trademark Application Serial Nos. 77/576,111 and 77/560,875 are identical or highly similar to the goods listed in U.S. Trademark Application Serial No. 77/562,518 filed by Opposer. Except as specifically admitted herein, Applicant denies the allegations contained in numbered paragraph 5 of the Opposition.

6. In response to numbered paragraph 6 of the Opposition, Applicant admits that its mark COMUNE (with a reversed letter “N”) as shown in U.S. Trademark Application Serial Nos. 77/576,111 and 77/560,875 is nearly identical or highly similar to the mark COMMUNE which is the subject of Opposer’s U.S. Trademark Application Serial No. 77/562,518 (“Opposer’s Mark”) and which is cited by Opposer as the basis for this opposition. Except as specifically admitted herein, Applicant denies the allegations contained in numbered paragraph 6 of the Opposition.

7. Applicant denies all the allegations contained in numbered paragraph 7 of the Opposition.

8. Applicant denies all the allegations contained in numbered paragraph 8 of the Opposition.

9. In response to numbered paragraph 9 of the Opposition, Applicant hereby incorporates by reference its admissions specifically set forth above in paragraphs 5 and 6 of this Answer. Except as specifically admitted therein, Applicant denies the allegations contained in numbered paragraph 9 of the Opposition.

10. Applicant denies all the allegations contained in numbered paragraph 10 of the Opposition.

11. Applicant denies all the allegations contained in numbered paragraph 11 of the Opposition.

12. Applicant denies all the allegations contained in numbered paragraph 12 of the Opposition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Claim For Relief)

1. Applicant asserts that the Opposition fails to state facts sufficient to constitute any claim for relief against Applicant.

SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

2. Applicant asserts that by virtue of Opposer's conduct, the Opposition and each purported claim for relief alleged therein are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

(Waiver)

3. Applicant asserts that Opposer has waived any claims against Applicant arising out of the matters alleged in the Opposition.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

4. Applicant asserts that Opposer is estopped from asserting any claims against Applicant arising out of the matters alleged in the Opposition.

FIFTH AFFIRMATIVE DEFENSE

(Acquiescence)

5. Applicant asserts that the Opposition and each purported claim for relief alleged therein are barred by the doctrine of acquiescence.

SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

6. Applicant asserts that the Opposition and each purported claim for relief alleged therein are barred by the applicable statute of limitations.

SEVENTH AFFIRMATIVE DEFENSE

(Laches)

7. Applicant asserts that the Opposition and each purported claim for relief alleged therein are barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

(Priority of Use and Superior Rights)

8. Applicant asserts that it has priority of use and superior rights in its COMUNE mark by virtue of the fact that, prior to September 26, 2006 (the earliest date of first use of the COMMUNE mark claimed by Opposer), Applicant's predecessor-in-interest had already begun using the COMUNE mark in commerce at least as early as May 2005.

NINTH AFFIRMATIVE DEFENSE

(No Abandonment)

9. Applicant asserts that Applicant, through its predecessor-in-interest, has continuously used the COMUNE mark in commerce since at least as early as May 2005, except for a period between August 2005 and May 2008 when Applicant's predecessor-in-interest was trying to find new investors for the business, and that at no time has Applicant, or its predecessor-in-interest, intended, or exhibited an intent, to abandon – that is, *not to resume use of* – the COMUNE mark.

TENTH AFFIRMATIVE DEFENSE

(Prior Opposition No. 91191103)

10. Applicant asserts that, prior to the filing date of the present Opposition, on July 17, 2009 Applicant instituted an opposition (Opposition No. 91191103) against Opposer's Mark on the basis of Applicant's priority of use and superior rights in its COMUNE mark, and that a decision in favor of Applicant in that proceeding will bar or require dismissal with prejudice of the present Opposition and each purported claim for relief alleged therein.

* * * * *

WHEREFORE, Applicant prays for the Trademark Trial and Appeal Board to dismiss with prejudice the Notice of Opposition filed by Opposer.

Respectfully submitted,

Date: August 31, 2009

By: Ellie Hourizadeh / H.S.
Ellie Hourizadeh.
McDermott Will & Emery LLP
2049 Century Park East, 38th Floor
LOS ANGELES, CA 90067
Tel: (310) 277-4110
Attorneys for Applicant
SEKSES DISTRIBUTION, LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2009, I served a copy of the foregoing ANSWER TO OPPOSITION, by serving a true and correct copy thereof via first-class mail to Opposer EDDIE HAHM, at the following address:

Eddie Hahm, Partner
COMMUNE
1116 W. Washington Blvd.
Los Angeles, CA 90015

Date: August 31, 2009

By: Ellie Hourizadeh / HS.
Ellie Hourizadeh